

Appl. No. 10/716,307
Petition dated April 13, 2004
Reply to Notice to File Missing Parts mailed February 18, 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Dirk N. Yerian, et al.

Serial No.: 10/716,307

Filed: November 18, 2003

Title: POWDER PREHEATING

Docket No.: 36110

PETITION UNDER 37 CFR § 1.47(a)

MAIL STOP MISSING PARTS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This communication is in response to the Notice to File Missing parts mailed February 18, 2004.

In response to the Notice to File Missing Parts, Applicants hereby petition the Commissioner to accept the accompanying Declaration and Power of Attorney forms executed by five of the six joint inventors, Dirk N. Yerian, Daniel J. Dimassa, Carter J. Bailey, Robert W. Messner, and Keith A. Yerian, on behalf of themselves and of the fifth joint inventor, James R. Nagy.

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: MAIL STOP MISSING PARTS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date indicated below.

Una L. Schumacher
Name of Attorney for Applicant

04/13/04
Date


Signature of Attorney

04/19/2004 MBERHE 00000134 10716307

02 FC:1460

130.00 0P

Appl. No. 10/716,307
Petition dated April 13, 2004
Reply to Notice to File Missing Parts mailed February 18, 2004

The Declaration of Una L. Schumacher, attached hereto as Exhibit A, provides proof of the pertinent facts concerning the refusal of Mr. Nagy to join in the present application for patent.

The name and address of the inventor refusing to join in this application are as follows:

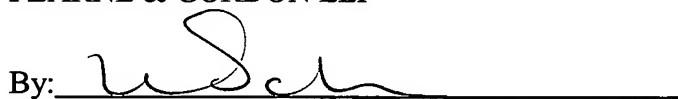
James R. Nagy
398 Skylark Drive
Akron Ohio 44313

Mr. Nagy was a joint inventor of the subject matter of the above-identified application. To date, he has refused to sign a declaration with regard to the application.

Enclosed is a check for \$195 to cover the \$65 late-declaration surcharge and the \$130 petition fee under Rules 1.47(a) and 1.17(h).

If there are any other fees required by this communication, please charge any such fees to our Deposit Account No. 16-0820, Order No. 36110.

Respectfully submitted,
PEARNE & GORDON LLP

By: 
Una L. Schumacher, Reg. No. 48998

1801 East 9th Street
Suite 1200
Cleveland, Ohio 44114-3108
(216) 579-1700

Date: April 13, 2004



THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Dirk N. Yerian, et al.

Serial No.: 10/716,307

Filed: November 18, 2003

Title: POWDER PREHEATING

Docket No.: 36110

DECLARATION OF UNA L. SCHUMACHER

MAIL STOP MISSING PARTS

Commissioner for Patents

P.O. Box 1450

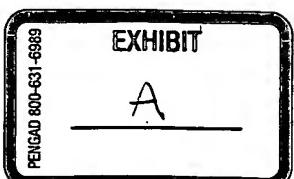
Alexandria, VA 22313-1450

Dear Sir:

I, Una L. Schumacher, hereby declare that:

1. I am a patent attorney with the firm Pearne & Gordon LLP in Cleveland, Ohio.
2. On January 22, 2004, I sent to Mr. James R. Nagy, via certified mail, return receipt requested, a package containing a complete copy of the above-captioned patent application, including specification, claims, drawings and abstract, a Declaration and Power of Attorney form, an Assignment form, and a cover letter.
3. The above package was sent to Mr. Nagy at his residence address of:

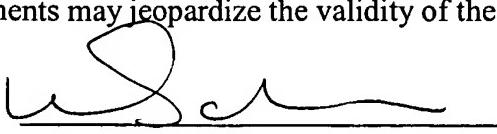
398 Skylark Drive
Akron Ohio 44313
4. On January 26, 2004, I received back the certified mail return receipt bearing the signature of "James Nagy" evidencing delivery and receipt of the above package at Mr. Nagy's address on January 23, 2004. A copy of the certified mail return receipt is attached hereto as Exhibit B.
5. The cover letter enclosed in the above package, a copy of which is attached hereto as Exhibit C, requested Mr. Nagy to review the enclosed application and execute and return the Power of Attorney and Assignment forms by February 20, 2004.
6. The letter further stated that failure to execute and return the Declaration and Power



- of Attorney form by February 20, 2004 would be deemed to constitute Mr. Nagy's refusal to join in the patent application.
7. The Assignment for the above-identified application was revised on March 22, 2004. Accordingly, on March 22, 2004, I sent to Mr. James R. Nagy, via certified mail, return receipt requested, the revised Assignment, another copy of the Declaration and Power of Attorney form, and a cover letter.
 8. The revised Assignment, the copy of the Declaration and Power of Attorney form, and cover letter were sent to Mr. Nagy at his residence address of:

398 Skylark Drive
Akron Ohio 44313
 9. On March 26, 2004, I received back the certified mail return receipt bearing the signature of "James Nagy" evidencing delivery and receipt of the revised Assignment, the copy of the Declaration and Power of Attorney form, and cover letter at Mr. Nagy's address on March 25, 2004. A copy of the certified mail return receipt is attached hereto as Exhibit D.
 10. The cover letter enclosed with the revised Assignment, a copy of which is attached hereto as Exhibit E, requested Mr. Nagy to execute and return the revised Assignment and Declaration and Power of Attorney forms by April 12, 2004.
 11. The letter further stated that failure to execute and return the Declaration and Power of Attorney form by April 12, 2004 would be deemed to constitute Mr. Nagy's refusal to join in the patent application.
 12. As of today's date, Mr. Nagy has failed to return the executed Declaration and Power of Attorney form.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. § 1001, and that such willful false statements may jeopardize the validity of the present application or any patent issued thereon.



Una L. Schumacher

April 13, 2004
Date

ER: COMPLETE THIS SECTION



Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
Print your name and address on the reverse side of this card so that we can return the card to you.
Attach this card to the back of the mailpiece, or on the front if space permits.

Article Addressed to:

Mr. James Nagy
398 Skylark Drive
Akron, OH 44313

RESI 36110 US/hkm.

2. Article Number (Copy from service label)

4001 2510 0005 9397 5284

COMPLETE THIS SECTION ON DELIVERY

A. Received by (Please Print Clearly)

JAMES NAGY

B. Date of Delivery

1-23-04

C. Signature

X James Nagy Agent AddresseeD. Is delivery address different from item 1? YesIf YES, enter delivery address below: No

3. Service Type

 Certified Mail Express Mail Registered Return Receipt for Merchandise Insured Mail C.O.D.4. Restricted Delivery? (Extra Fee) Yes

PS Form 3811, July 1999

Domestic Return Receipt

102595-00-M-0952

BEST AVAILABLE COPY

EXHIBIT

B

PENCOAD 800-631-6969

CHARLES B. GORDON
THOMAS P. SCHILLER
DAVID B. DEIOMA
JOSEPH J. CORSO
HOWARD G. SHIMOLA
JEFFREY J. SOKO
JOHN P. MURTAUGH
JAMES M. MOORE
MICHAEL W. GARVEY
RICHARD A. SHARPE
RONALD M. KACHMARIK
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UNA L. SCHUMACHER
STEVEN J. SOLOMON
GREGORY D. FERNENGEL

OF COUNSEL
LOWELL L. HEINKE
THADDEUS A. ZALENSKI

PATENT, TRADEMARK,
COPYRIGHT AND RELATED
INTELLECTUAL PROPERTY LAW

January 22, 2004

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mr. James Nagy
398 Skylark Drive
Akron, Ohio 44313

Re: Declaration and Assignment
U.S. Patent Application Serial No. 10/716,307
for POWDER PREHEATING
Our Docket: 36110

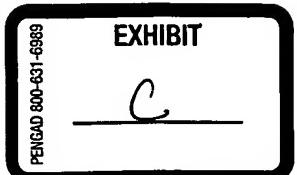
Dear Mr. Nagy:

I am writing to you as a named inventor for the patent application captioned above, to ask you to join in the application.

Enclosed herewith is a complete copy of the above-captioned patent application as filed, including specification, claims, drawings and abstract. Also enclosed are a Declaration and Power of Attorney form and an Assignment form.

Please review the enclosed complete application, and then execute (sign and date) the enclosed Declaration and Power of Attorney form where indicated by your name. Leave the spaces for the other inventors blank. Also, please execute the enclosed Assignment form by your name, noting that your signature on the Assignment must be notarized.

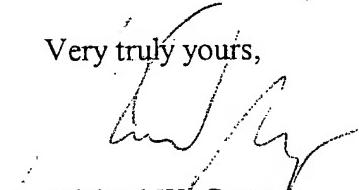
Please then return the fully executed Declaration and Power of Attorney and Assignment forms to me at the above address as soon as possible, but not later than February 20, 2004. If you prefer, you may fax the fully executed documents by that date, and then return the signed originals via regular mail in due course.



Mr. James Nagy
January 22, 2004
Page 2

Your failure to execute and return the enclosed Declaration and Power of Attorney form by February 20, 2004 will be deemed to constitute your refusal to join in the patent application.

Very truly yours,



Michael W. Garvey

MWG/ULS/hkm
Enclosures

SENDER: COMPLETE THIS SECTION

COMPLETE THIS SECTION ON DELIVERY

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Mr James Nagy
398 Skylark Dr.
Akron OH 44313

RESI 36110 mw61alw

2. Article Number

(Transfer from service label)

7003 1010 0004 1291 8108

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-15

A. Signature

X

B. Received by (Printed Name)

C. Date of Delivery

SH. FARNER WY
Agent P
Address
2001
25
2001
44333

D. Is delivery address different from item 1? Yes
If YES, enter delivery address below: USES No

3. Service Type

- | | |
|--|---|
| <input checked="" type="checkbox"/> Certified Mail | <input type="checkbox"/> Express Mail |
| <input type="checkbox"/> Registered | <input type="checkbox"/> Return Receipt for Merchandise |
| <input type="checkbox"/> Insured Mail | <input type="checkbox"/> C.O.D. |

4. Restricted Delivery? (Extra Fee)

 Yes

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JOSEPH J. CORSO
HOWARD G. SHIMOLA
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JOHN P. MURTAUGH
JAMES M. MOORE
MICHAEL W. GARVEY
RICHARD A. SHARPE
RONALD M. KACHMARIK
PAUL A. SERBINOWSKI



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STEVEN J. SOLOMON
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OF COUNSEL
LOWELL L. HEINKE
THADDEUS A. ZALENSKI

PATENT, TRADEMARK,
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INTELLECTUAL PROPERTY LAW

March 22, 2004

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James Nagy
398 Skylark Drive
Akron, Ohio 44313

Re: U.S. Patent Application for
POWDER PREHEATING
Serial No.: 10/716,307
Filed: November 18, 2003
Docket No.: 36110

Dear Mr. Nagy:

Further to our letter of January 22, 2004, I am enclosing a revised Assignment for your signature. Please sign and date the Assignment, noting that it must be notarized, and return it to our office as soon as possible.

For your convenience, I am also enclosing a copy of the Declaration and Power of Attorney for the same application. Please sign and date the Declaration and return it to our office for immediate filing with the U.S. Patent Office, **before April 12, 2004**.

Your failure to execute and return the enclosed Declaration and Power of Attorney form will be deemed to constitute your refusal to join in the patent application.

Very truly yours,

Michael W. Garvey

MWG/ULS/alw
Enclosures

